

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DIMAS SANTIAGO,	:	CIVIL ACTION NO. 1:12-CV-2007
Plaintiff	:	
	:	
	:	(Judge Conner)
v.	:	
	:	
ADAM SAUL, et al.,	:	
Defendants	:	

ORDER

AND NOW, this 11th day of December, 2012, upon consideration of the Report and Recommendation of United States Magistrate Judge Thomas M. Blewitt (Doc. 8), recommending (1) that plaintiff's claims for monetary damages against defendants in their official capacity be dismissed with prejudice; (2) that defendant Lebanon County be dismissed without prejudice; (3) that plaintiffs' request that he be released from Lebanon County Correctional Facility and his challenge to his present confinement be dismissed without prejudice; (4) that defendant ADA Eisenhart be dismissed with prejudice; (5) that defendant Deiderick be dismissed with prejudice; and (6) that plaintiff's constitutional claims against defendant Saul be dismissed, and, following an independent review of the record and noting that plaintiff filed objections¹ to the report

¹ Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at *3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). “In this regard, Local Rule of Court 72.3 requires ‘written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.’” Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at *6 (M.D. Pa. Sept. 8, 2008)).

on November 13, 2012 (Doc. 9) and November 19, 2012 (Doc. 10), and the court finding Judge Blewitt's analysis to be thorough and well-reasoned, and the court finding plaintiff's objections to be without merit and squarely addressed by Judge Blewitt's report (Doc. 8), it is hereby ORDERED that:

1. The Report and Recommendation of Magistrate Judge Blewitt (Doc. 8) are ADOPTED.
2. Plaintiff's claims for monetary damages against defendants in their official capacities are DISMISSED with prejudice.
3. Plaintiff's request to be released from Lebanon County Correctional Facility and his challenge to his present confinement in Lebanon County Correctional Facility as a result of his conviction and sentence in Criminal Case CP-38-CR-557-2011 is DISMISSED without prejudice to his right to pursue a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 after plaintiff exhausts his state court remedies.
4. Defendant ADA Eisenhart is DISMISSED with prejudice based on prosecutorial immunity.
5. Defendant Deiderick is DISMISSED with prejudice.
6. Plaintiff's claims against Defendant Lebanon County are DISMISSED without prejudice and Plaintiff's constitutional claims against Defendant Saul are DISMISSED without prejudice. Plaintiff's complaint (Doc. 1) is DISMISSED without prejudice. Plaintiff is granted leave to file an amended complaint within twenty (20) days of the date of this order, which must address the deficiencies noted in Judge Blewitt's Report and Recommendation. Failure to file an amended complaint in a timely fashion shall be deemed an abandonment of these claims and this matter shall be dismissed with prejudice.
7. The above-captioned case is REMANDED to Magistrate Judge Blewitt for further proceedings.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge